

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

TIMOTHY EVANS	§	PLAINTIFF
	§	
v.	§	CAUSE NO. 1:10CV102 LG-RHW
	§	
TIFFANY SMITH, ET AL.	§	DEFENDANTS

**ORDER ADOPTING PROPOSED FINDINGS OF FACT
AND RECOMMENDATION AND GRANTING MOTION
TO DISMISS FOR FAILURE TO PROSECUTE**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [37] of United States Magistrate Judge Robert H. Walker entered in this cause on February 11, 2011.

Judge Walker considered the Defendants' Motion [35] to Dismiss pursuant to FED.R.CIV.P. 41(b). He reviewed the procedural history of this case, noting that despite being ordered to do so, Plaintiff failed to serve responses to the Defendants' discovery requests. Further, Plaintiff failed to keep the Court apprised of his address, resulting in the return of mail addressed to Plaintiff. Judge Walker warned Plaintiff on a number of occasions that failure to keep the Court informed of his mailing address could result in dismissal of this lawsuit. Judge Walker concluded that Plaintiff's apparent lack of interest in prosecuting this case warranted the relief requested by Defendants - dismissal under Rule 41(b).

No party has filed an objection to the findings or recommendations of the Magistrate Judge. Therefore, the Court need only review the Proposed Findings of Fact and Recommendations and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After

having reviewed the Proposed Findings of Fact and Recommendations and the record in this case, the Court finds the Magistrate Judge's conclusions neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation [37] of United States Magistrate Judge Robert H. Walker entered in this cause on February 11, 2011, should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Defendants' Motion [35] to Dismiss pursuant to FED. R. CIV. P. 41(b) is **GRANTED**. Plaintiff's claims are **DISMISSED WITH PREJUDICE**.

SO ORDERED AND ADJUDGED this the 14th day of March, 2011.

s/ Louis Guirola, Jr.

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE